

In The District Court of the United States
For The Middle District of Alabama
Northern Division

Joe Benoit Martin #208789
Plaintiff,

v.

Arnold Holt, et. Al.
Defendants.

2008 JAN 16 A 9 29
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA.
Civil Action no. 2:07-CV-884-MEF

Plaintiff Response to the Written Report filed by the defendant
and Response to this Court Order Jan. 8, 2008

Comes now, the Plaintiff response to the defendant's Special reports Plaintiff shall show good cause for asking incline Strait in this requestful legal Cognovite for the Honorable United States Magistrate Judge Wallace Capal, Jr. for leave to take Additional discovery (Rule 16).

The above Plaintiff (Joe Benoit Martin). An inmate in the Alabama Department of Correction State while he was confined at Kilby Correctional Facility, Defendants failed to recognize his no Pro long Standing Profile gave to him by the medical Provider for the State of Alabama D.O.C. Failure to adhere to the Department of Corrections Regulation for work status for a disabled inmate.

This not only violates A.D.D.C. Regulations, this Violations is a Constitutional guarantee to Protect a Prison from Cruel and Unusual Punishment. Inmate Joe B. Martin Plaintiff will Produce evidence which would be admissible at trial supporting his Constitutional Claims. Plaintiff has went beyond the Pleading and designate specific facts showing that there is a Genuine issue for trial. Celotex Corp v. Catrett 477 U.S. 317, 324 (1986) Plaintiff will show the (trier of fact) could reasonably find for the Plaintiff Anderson v. Liberty Lobby 477 U.S. 242, 106 S.Ct. 2505, 2512, 91 L.ed 2d 202 (1986) Walker v. Darby, 911 F.2d 1573, 1576-1577 (11th Cir. 1990).

Plaintiff Affidavit no Prolong Standing Profile for work restriction Good for 1 year (Exhibit A) no Prolong Standing for 20 minutes (Exhibit B) no Prolong Standing for 20 minute (Exhibit C) no Prolong Standing 20 minutes (Exhibit D) Diagnosis from Prison Health Services, Chronic Bronchitis C.O.P.D. Hypertension (Exhibit E) Affidavit From Plaintiff (Joe B. Martin) Job duties in the Kitchen (Exhibit F) Sworn Statement for Plaintiff Joe B. Martin stating he has no access to his medical file other than his Exhibits all other is in his institutional file Exhibit G which now is a Prima Facie case as to each and every Exhibit(s) that shall point out and so such malicious intents of there default in a defamatory manner,

In The Statement of undisputed facts from the defendants (Exhibit B, P. 7.) is a Attempt to deceive the Court into thinking the Plaintiff is a Temporarily disable inmate Arnold Holt says he does not recall getting a request slip from the Plaintiff about his Job. (Exhibit A) But the request in fact was rerouted to Captain Bolling (Exhibit B) (P. 4-5) where the Captain denied my request for a Job change where I told him I was in Pain (Exhibit B-P. 4-5) There is also a conflict in Capt. Leon Bolling Sworn Affidavit, Defendants) Bolling States that the Plaintiff (Joe B. Martin) is a client of the mental Health on a needed Basis Exhibit B P. 11. where the Plaintiff a full time Patient of mental health. There are conflicting statements by (Leon Varner) (Exhibit C) P. 1. and 2) (Leon Varner Defendant states I was given a Job on the Line Serving Juice, The Juice is served in the dining hall not the serving line. (Leon Varner defendant states I never told him I wanted to get of my less. Every day at work I told Leon Varner about my breathers Problem and Pain in my feet. (Exhibit C P 2) Leonardo moder COI defendant threaten me on 2 different occasions. If I had not done as he said I would of been beat up and Put in lock up and Disciplinary Action would of hurt my Parole Application (Exhibit D P. 2) when I meet with Michel A Warren On May 11 2007 He told me there were no sitting Job in the Kitchen that I must have been Put in the Kitchen for some kind of Punishment by the Captain (Exhibit E) (Page 1-2).

Defendant Barrett told me my no Prolong Standing Profiles were honored at Milby Corr Facility. These defendants has Presented conflicting evidence Northington 973, 2d at 1521. On Summary Judgement, Defendants Report is treated affidavit and the court is not authorized to except it's fact finding if defendant(s) has Presented conflicting evidence GTE. U.S. 829 F.2d 1005, 1007 10th Cir. 1987) Collins v. Cundy 603, F.2d (10th Cir 1979) Reed v. Donham 893 F.2d 285, 287 n2 (10th Cir 1990)

The Plaintiff has demonstrated through Prima Facie evidence and appropriate Precedent there is a genuine issue of material facts relating to a Constitutional Violation and that he is entitled to a Judgement as a matter of law. Mr. Martin Submission(s) clearly has met his required burden. The Plaintiff is there entitled to a Judgement in his favor.

Certificate of Service

I certify On the _____ day of _____ 2008, that copies has been served On the District Court of the United States Middle District of Alabama Hon. J. Matt Bledson Counsel State of Alabama Attorney General Office by U.S. Mail Pre-Paid

Respectfully Submitted



SPECIAL NEEDS COMMUNICATION FORM

Date: 1/26/07

To: MR

From:

Inmate Name: Martha Jones ID#: 20-89

The following action is recommended for medical reasons:

1. House in
2. Medical Isolation
3. Work restrictions
4. May have
5. Other

Comments:

10 to 12 days of working

Date: 1/26/07 MD Signature: [Signature] Time: 1500

60418

EXHABIT A

**SPECIAL NEEDS COMMUNICATION FORM**Date: 7/21/11To: JoeFrom: JoeInmate Name: Martin, Joe ID#: 208789**The following action is recommended for medical reasons:**

1. House in _____
2. Medical Isolation _____
3. Work restrictions _____
4. May have extra _____ until _____
5. Other _____

Comments:Key lock Profile x 180 daysNo prolonged standing. Max. in then 20 minutes for 90 daysDate: Sp 11 MD Signature: DD M. L. [Signature] Time: _____

60418

EXHIBIT B



SPECIAL NEEDS COMMUNICATION FORM

Date: 2/16/07

To: Doc

From: _____

Inmate Name: Martin, Joe ID#: 208789

The following action is recommended for medical reasons:

1. House in _____
2. Medical Isolation _____
3. Work restrictions _____
4. May have extra _____ until _____
5. Other _____

Comments:

No robbery standing Guard less than 20 minutes x 90 days

Date: 2/16/07 MD Signature: VO M. Baker Time: _____
Shaver

60418

EXHIBIT C

ADOC
SPECIAL NEEDS COMMUNICATION FORM

Date: 11-20-07

To: DOC

From: OPC

Inmate Name: Martin, Joe ID#: 208789

The following action is recommended for medical reasons:

1. House in _____
2. Medical Isolation _____
3. Work restrictions _____
4. May have extra _____ until _____
5. Other _____

Comments:

KOP- Albuterol Inhaler x 180 days
No prolonged stand/walk. Greater 20 minutes x 90 days

Date: 11/20/07 MD Signature: W. M. Butler Capt/James Time: _____

G 32A



PAROLE DISCHARGE PLAN

PAROLE TO: _____ DATE OF PAROLE: _____

COUNTY PAROLING TO: _____

DIAGNOSIS: Chronic Bronchitis, COPD, HypertensionPOSITIVE PPD CONVERSION DATE: 01-09-06 15mmDATE TREATMENT INITIATED: 01-10-06DATE TREATMENT COMPLETED: 7-10-06DATE OF CHEST X-RAY NORMAL: 5/30/07

DATE OF CHEST X-RAY ABNORMAL: _____

DIET: RegularEXERCISE: As toleratedALLERGIES: NKDAMEDICATIONS: Albuterol inhaler, Mometasone, B-Dan

SUPPLY SENT: _____

LAST CHRONIC CARE CLINIC: 5-16-07

LABORATORY/DIAGNOSTIC TESTING NEEDED: _____

SHORT TERM GOALS: _____

No worsening of pulmonary problems - medication compliance

LONG TERM GOALS: _____

Not to return to ADCC System.

ROUTINE FOLLOW-UP FREQUENCY: _____

Initiate MD visit upon leaving ADCC systemMEDICALLY CLEARED ☒ YES ☐ NOCOUNSELED Re: COMM. SER. ☐ YES ☐ NONurse's Signature: P. Schumacher RN, LPA Date: 11/16/07

INMATE NAME (LAST, FIRST, MIDDLE)	DOC#	DOB	Race/Sex	FAC.
<u>Martin, Joe</u>	<u>108789</u>	<u>7-27-57</u>	<u>W/M</u>	<u>KCF</u>

In The District Court of The United States
For The Middle District of Alabama
Northern Division

Joe Bendit Martin #208789
Plaintiff

v.

Arnold Holt, et al.
Defendants.

Civil Action No. 207-CV-884 MEF

Affidavit

I, Joe Martin, being duly sworn depose and say; I am over the age of twenty-one (21) years of age, I am the Plaintiff in this case that will present Prima facie Evidence that cannot be refuted by law and will show the following hereto:

The Plaintiff (Joe B. Martin) Job duties at Kirby as Juice and Table man, the Juice is not served on the line it is served out in the dining hall area, The Plaintiff goes into the Kitchen at 8.30 a.m. The first thing to do is go out back of the Kitchen to the ice house fill up (4) four garbage cans with ice then you drag them through the Kitchen behind the line and down the front of the line into the dining hall. Second, you fill up 3

Cont. EXHABIT F

Garbage Can with water (2) For Juice (1) For Cold water and then you fill up the Juice and water kegs with ice Juice and water. You have about 45 min. to do this before they start feed Population. There is no time for a break when Population start to eat you keep the kegs full and wipe table when people get up this take about an hours and 45 min. after everyone is feed all the table have to be wipe off. The Juice Strip has about 900 hundred square feet that has to be swept and mop then you have to go back to the Ice House and get 4 more garbage can full of Ice and put them in the cooler for the afternoon meal. This is about 11.30 to 12.00 noon most of the time after this we can leave the kitchen unless the Stewart has other duties kill flies or cut up veg. at 2.00 p.m. we go back to the kitchen to served the after noon meals and repeat the same order as the noon time meal. after the evening meal we clean the table and clean the Juice Strip and empty garbage can and clean out can usually finish about 5.15. There is no time for a break.

I certify under Penalty of Perjury under the law of the United States of America that the foregoing is true and correct to the best of my knowledge.

Affiant

In The District Court of the United States
For The Middle District of Alabama
Northern Division

Joe Benoit Martin [#]208789

Plaintiff,

Civil Action No. 2:07-cv-884-MEF

v.

Arnolt Holt, et al
Defendants,

Affidavit

I am Joe B. Martin, being duly sworn depose and say: I am over the age of twenty-one (21) years of age. I am the Plaintiff in the case that will present Prima facie evidence that cannot be refuted by law and will show the following hereto:

Sworn Statement From the Plaintiff (Joe Benoit Martin)

In response to the defendant Special Report and Court order dated 8 day of January 2008, The Plaintiff Joe Benoit Martin Swear and depose to say there are relevant medical records and Psychiatric records in my medical File that are relevant for this action other no Prolong standing Profiles and lung Problems breathing Hot steam.

I certify under Penalties of Perjury under the law of the United States of America that the foregoing is true and correct to the best of my knowledge

EXHIBIT G

Affidavit

In The United States District Court
For the middle District of Alabama
Northern Division

Joe Benoit Martin #208789
Plaintiff

v.

Arnold Holt, et. Al.
Defendants

Case no: 2:07-CV-884-MEF

Affidavit

I, Joe Martin, being duly sworn depose and say: I am over the age of twenty one (21) years of age, I am the Plaintiff in the case that will Present Prima facie Evidence that cannot be refuted by law and will show the following hereto:

I Joe Benoit Martin The Plaintiff went to the JDB board on May 10, 2007, After showing Captain Barnett, Mr. no Prolong standing Profile Provided by The D.O.C. medical Provider ~~by~~ Good for one year, Captain Barnett said it was no Good at this time I would have to get one for no Prolong standing for 20 m.n. that I would have to work in the Kitchen until I got a new Prolong Profile. On or about May 21, 2007, The Plaintiff obtained the needed Prolong Profile from Prison Health Service On or about May 20, 2007, I Put in a Request to Warden Holt about the Pain

I was having with my right foot from standing while they were serving a meal in the Dining hall. Captain came in the dining hall asking where Joe Martin was at men who was brave enough to write the warden I meet with Captain Bolling M. A Warren and Leon Varner. Where Captain Bolling told the Plaintiff that nothing medical was wrong with the Plaintiff except a no Prolong Standing Profile, and he was not scared of any lawsuit I might filed and if I move anything my standing time will start over that I was sent to Prison to work and I would work as long as I was here. I told Leon Varner defendant I could no breath Hot steam, I was assigned to a light duty job a couple of day later I was put making and serving the Juice in the Dining hall where I had to stand for 3 hours at a time On or about July 17, 2007. After was serve the Lunch meal Leon Varner defendant told me I had to kill 20 flies and put them in a cup and bring them to ~~me~~ Him Before I could take my break, I ask Mr. Varner to call the L.t. I wanted to speak to him instead He sent ~~sent~~ got officer Leon Moore to threaten me with Bodily harm if I didn't kill the flies On July 24, 07 Leon Moore told me to wipe off the tables, I told

I was hurting trying to take a break he told me He had better not have to tell me ~~that~~ again He would bust my head. On Aug 12, 2007, the Plaintiff told me R. Rynge Col that he was hurting officer told the Plaintiff he and the Plaintiff would go tell Leon Varner I was hurting so I could sit down Leon Varner told me to wipe table that was a direct order, I would be wrote up if I failed to wipe the tables. After the meal officer Gates Col took me to follow him to medical, where nurse Lysykanez told me to follow him to the Shift office where Lt. Clay was nurse Lysykanez to Lt. Clay I was not to stand for more than 20 min. Lt Clay called Leon Varner into the officer where he said I had told him me and my son was going to have a paint business when I got out that if I was able to paint house I was able to stand in the kitchen. Lt. Clay told me to sit when my 20 min was up But if the table needed to be wipe to set up and do it. On August 14, 2007

I went to see my mental Health Counselor to see if she could help me get out of the kitchen. I was being put in pain. Mrs Burrell called Capt. Bolling into her office where I showed defendant Bolling The Knot on my foot and told him I could not do my job in the kitchen without being put into pain. This was my 2nd attempt to get Capt. Bolling to help me to get out of the kitchen or get me some help Warden Rowell

came into the Kitchen around on the 15th of Aug. Capt. Bolling told me he had talked to the Kitchen Steward Leon Varner about someone to help me where I could ~~take~~ Take a break when needed. Around Sept. 24, 2007 Warden Rowell came into the Kitchen During feeding I ask him for help. he Called Leon Varner out of his office and told him to get me some help. As soon as Warden Rowell walked away Leon Varner told me I was back on the serving line. I put in a request to Warden Rowell telling him my medical Problem and what Mr Varner had done he put me on the Job Band Sept. 27, 2007 The deliberate indifference shown by the defendants required Plaintiff Martin to work in Pain from May 11, 2007 until ~~Sept 22~~ Sept 22, 2007. In Pain. This is a clear violation of the Plaintiff Rights, ADDC. Rules and Regulations for a inmate with a disability also to adhere to the Constitution guarantee to Protect a Prison from Cruel and Unusual Punishment.

~~Signature~~

I Certify under Penalty of Perjury under the Law of the United States of America that the foregoing is true and correct to the best of my knowledge.

Affiant

Notary Public

State of Alabama
County of Montgomery

Sworn to and Subscribed before me On this
the 14th day of January 2008.

6-2-2011
my Commission Expires

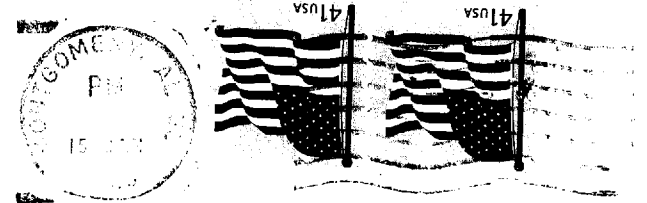
Perry A. Woods
Notary Public

Certificate of Service

I certify On the — day of — 2008. That
copies has been served on the District Court of the
United States Middle District of Alabama Hon. J. Matt
Bledson Counsel State of Alabama Attorney General
Office by U.S. Mail Pre-Paid.

Respectfully Submitted
Lee B. Martin
Lee B. Martin #208789

Joe B. Martin 208789
Jail By Corr Fac. L-32A
P.O. Box 150
MT Meigs A1 36057



LEGAL MAIL

This correspondence is forwarded from an Alabama State Prison. The contents have not been evaluated, and the Alabama Department of Corrections is not responsible for the substance or content of the enclosed communication."

OFFICE OF THE Clerk
UNITED STATES District Court
P.O. Box 711

MONTGOMERY AL 36101-0711

